

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNDER SEAL

| | | |
|--------------------------|---|---------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | CRIMINAL NO. 13-10200-GAO |
| |) | |
| DZHOKHAR TSARNAEV |) | |

**MOTION TO STRIKE AND TO CORRECT CERTIFICATES OF SERVICE
AND TO ENLARGE TIME TO FILE OPPOSITION
TO GOVERNMENT MOTIONS IN LIMINE**

The defendant, through counsel, moves this Court to strike the Certificates of Service on the government filings listed below, to enlarge the time for responding to the motions, and to direct the Government to correct the certificates of service. Because each of the motions was filed under seal, counsel file this motion under seal.

1. The certificate of service for the Government's Motion in Limine to Preclude Reference to Plea Negotiations states: "I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on this date." The certificate of service was signed by William D. Weinreb. The motion was undated, and was not filed or served via ECF. Defense counsel were not served with a copy of this Motion until 3:56 p.m. on Saturday, February 21, 2015. Undersigned counsel request that the certificate of

service be stricken and corrected, and that the time for response be enlarged to and including Monday, March 9, 2015.

2. The certificate of service for the Government's Motion in Limine to Preclude Any Reference to Waltham Triple Homicide or Other Alleged Bad Acts of Tamerlan Tsarnaev states: "I hereby certify that this document will be sent by electronic mail to Dzhokhar Tsarnaev's attorney, Judy Clarke, on December 29, 2014." The certificate of service was signed by William D. Weinreb. Defense counsel were not served with a copy of this Motion until 3:56 p.m. on Saturday, February 21, 2015. Undersigned counsel request that the certificate of service be stricken and corrected, and that the time for response be enlarged to and including Monday, March 9, 2015.

3. The certificate of service for the Government's Motion in Limine to Exclude Evidence or Argument Regarding Mitigating Evidence in the Guilt Phase states: "I hereby certify that this document will be sent by electronic mail to Dzhokhar Tsarnaev's attorney, Judy Clarke, on December 29, 2014." The certificate of service was signed by Steven D. Mellin. Defense counsel were not served with a copy of this Motion until 3:56 p.m. on Saturday, February 21, 2015. Undersigned counsel request that the certificate of service be stricken and corrected, and that the time for response be enlarged to and including Monday, March 9, 2015.

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. The Government's Response to the Defendant's Status Report and Notice of Guilt Phase Evidentiary Issues states, "I hereby certify that this document will be sent by electronic mail to Dzhokhar Tsarnaev's attorney, Judy Clarke, on February 4, 2014." The certificate of service was signed by William D. Weinreb. Defense counsel were not served with a copy of this filing until 10:10 a.m. on February 12, 2015. Undersigned counsel request that the certificate of service be stricken and corrected.

6. During January 2015, the docket clerk for this case provided a defense paralegal with a box of documents that had been filed under seal. Counsel made the request for copies of the sealed documents solely so that our paralegal could identify the DE numbers for the documents filed by both sides, and never anticipated that additional documents existed that the government had filed under seal but failed to serve upon defense counsel. After the government's belated service on Saturday, February 22, counsel searched the sealed documents provided by the docket clerk and discovered that the first three of the motions listed above had indeed been included among the sealed documents furnished to the defense paralegal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CONCLUSION

For the foregoing reasons, the defendant asks the Court to strike the erroneous Certificates of Service, direct the government to correct the certificates of service and enlarge the time for filing the defendant's responses.

Respectfully submitted,



David I. Bruck
Judy Clarke
Miriam Conrad
William Fick
Timothy Watkins

Counsel for Dzhokhar Tsarnaev

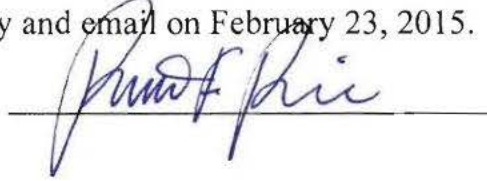
[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that true copies of this document were served upon Assistant U.S. Attorneys William Weinreb, Alope Chakravarty, Nadine Pellegrini, and Steven Mellin by delivery to the office of the U.S. Attorney and email on February 23, 2015.



A handwritten signature in blue ink, appearing to read "Paul F. Ricci", is written over a horizontal line.